

## Request for Abatement of Interest

**👉 Before completing this form, please read the instructions on the back**

Use form FTB 3701 **only** for requesting an abatement of interest. **Do not** use form FTB 3701 if you are claiming a refund for an overpayment of income taxes. For Privacy Notice, see form FTB 1131.

Name	Your Social Security Number
Address (number, street, and room, or suite number)	Spouse's Social Security Number
City or town, State, and ZIP Code	Entity Identification Number
Name and address shown on return if different from above	Daytime telephone number (       )
1. Period of time for which abatement is being requested From _____ to _____	2. Tax year(s) _____

**3. Explanation.** Explain why you believe this request for abatement of interest should be allowed, and the period for which interest should be abated.

**NOTE:** If you are filing a protest against a proposed assessment or an appeal, and also wish to request an abatement of interest, you must include the request for abatement of interest with your protest or appeal.

**Signature.** Requests filed by business entities must be signed by an authorized individual, and the signature must be accompanied by the individual's title.

Under penalties of perjury, I declare that I have examined this claim, including any accompanying schedules and statements, and, to the best of my knowledge and belief, it is true, correct, and complete.

Signature (and title, if applicable)

Date \_\_\_\_\_

Signature

Date \_\_\_\_\_

# Instructions for form FTB 3701

## Request for Abatement of Interest

These instructions are based on California Revenue and Taxation Code Section 19104(a).

### General Instructions

#### Purpose of Form

Use form FTB 3701 to file a request for the abatement of interest. The Franchise Tax Board (FTB) can abate all or any part of assessed interest when the additional interest is attributable to FTB errors or delays or errors and delays attributable to the Internal Revenue Service.

#### When interest may be abated based on FTB errors or delays.

The law only allows FTB to abate interest for FTB errors or delays under the following circumstances:

- The deficiency or proposed deficiency upon which the interest was charged was attributable in whole or in part to any unreasonable error or delay by an officer or employee of the Franchise Tax Board (acting in his or her official capacity) in performing a ministerial or managerial act.<sup>1</sup>
- The payment of any final deficiency assessment was delayed due to that officer or employee being dilatory in performing a ministerial or managerial act.
- For ministerial acts, the interest at issue accrued after September 25, 1987, without regard to tax year.
- For managerial acts in tax years beginning on or after January 1, 1998:
  - No significant aspect of the delay or error was attributable to the taxpayer, and
  - The error or delay occurred after the date the FTB contacted the taxpayer, in writing, with respect to the deficiency or payment.

**Note:** Normal return processing or audit work within the statute of limitations time period will not in itself justify the abatement of interest. **Generally**, the FTB has four years to make an audit adjustment.

#### When interest may be abated based on IRS errors or delays.

The law only allows FTB to abate interest for IRS errors or delays under the following circumstances:

- Upon a showing of an abatement of interest by the IRS attributable to an error or delay in the performance of a ministerial or managerial act. The error or delay must have occurred on or before the IRS issued a final

determination of tax. The deficiency upon which the federal interest abatement was allowed must be related to the state deficiency. FTB can only abate interest for the same time period that the IRS abated interest.

- For ministerial acts, the interest at issue accrued after September 25, 1987, without regard to tax year.
- For managerial acts in tax years beginning on or after January 1, 1998.

#### Definitions:

**Ministerial act** means a procedural or mechanical act that does not involve the exercise of judgement or discretion and that occurs during the processing of a taxpayer's case after all prerequisites to the act, such as conference and review by supervisors, have taken place (Treas. Reg. 301.6404-2).

**Managerial act** means an administrative act that occurs during the processing of a taxpayer's case, which involves the temporary or permanent loss of records. A managerial act is also the exercise of judgement or discretion relating to management of personnel (Treas. Reg. 301.6404-2(b)(1)).

#### Who may file

You or your authorized representative may file form FTB 3701. If your authorized representative files for you, the original or a copy of a Power of Attorney form must be attached to form FTB 3701.

#### When to file

You may file a request for the abatement of interest at any time after receiving a notice of deficiency or proposed deficiency. **However**, if you are filing a protest against a proposed deficiency or an appeal from a notice of action on a protest, and you intend to request an abatement of interest, your request to abate interest must accompany your protest or appeal. Otherwise, the Franchise Tax Board cannot consider your request and you may lose your right to appeal the abatement of interest before the State Board of Equalization.

#### Where to file

If you are filing a protest or appeal, attach the completed and signed form FTB 3701 and mail both to the address on the notice you received from us. Otherwise, mail the completed and signed form to:

**Taxpayer Advocate Bureau MS B-20**  
**Franchise Tax Board**  
**PO Box 157**  
**Rancho Cordova CA 95741-0157**  
**Fax: (916) 845-6614**

### Specific Line Instructions

#### Social Security Number

If you are filing form FTB 3701 to request an abatement relating to a joint return, enter social security numbers for both you and your spouse.

#### Entity Identification Number

If you are filing form FTB 3701 to request an abatement of interest for a corporation, a partnership, or an LLC, enter the entity identification number.

#### Line 1

Enter the period of time for which you are requesting an abatement of interest.

#### Line 2

Enter the tax year(s) for which the abatement of interest is being requested.

#### Line 3

Explain in detail your reasons for filing the request:

- Describe the circumstances of your case.
- Describe the error or delay on the part of the FTB, or provide evidence that the Internal Revenue Service abated interest based on a ministerial or managerial act.
- State when you were first contacted by the FTB in writing about the deficiency or payment.

Please attach appropriate supporting evidence to the form FTB 3701.

#### If your request is denied

If the Franchise Tax Board denies your request for an abatement of interest, you will receive a formal letter of denial (Notice of Determination Not to Abate Interest) explaining your right of appeal to the State Board of Equalization. For your appeal rights and actions, see form FTB 5847I.

#### If you do not hear from us

If you do not hear from the FTB within six months of filing your request for abatement of interest, and you are not filing your form FTB 3701 with a protest, you may consider your request "deemed denied" and file an appeal with the State Board of Equalization. For your appeal rights, see form FTB 5847I.

<sup>1</sup> The provision adding "unreasonable" and "managerial act" is effective for taxable years beginning on or after January 1, 1998.